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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 596 OF 2006

Trimurti Constructions & anr. ... Appellants

V/s

Sou. Ranjana Anant Kadam ... Respondents

Mr. V.P. Patil for the appellants.

Mr. R.G. Ketkar for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 20TH JULY, 2007.

P.C.:

1. This appeal arises from the judgment in Special Civil Suit No. 91 of 1986 which was confirmed by the appellate Court in Civil Appeal No. 195 of 2004.

2. The plaintiff has filed the suit for specific performance against an injunction against appellants on the ground that the appellants had not executed the registered sale deed in her favour. The plaintiff had also claimed a mandatory and permanent injunction against the defendants from obstructing her from using the terrace of the building. This suit has been decreed by the trial Court. The appellants were directed to

execute the sale deed and they were restrained from obstructing the plaintiff's status. The Trial Court, after considering the evidence on record has found that the plaintiff failed to perform her part of the contract and, therefore, directed that the sale deed be executed. The appellate Court has confirmed this. The learned advocate appearing for the appellants contends that a similar suit filed by one Doshi, has been dismissed. His appeal has been admitted and, therefore, the present appeal should also be admitted. This submission cannot be accepted at all. This Court has found that a substantial question of law has arisen in Doshi's appeal and, therefore, has admitted the appeal. That does not necessarily mean that a substantial question of law has been raised in the present appeal.

3. Concurrent findings of fact have been given by both the Courts below while decreeing the suit for specific performance that the appellant has not performed its part of the contract.

4. No substantial question of law arises in the present appeal.

5. Appeal dismissed.

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